

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Civil Action No.: 3:17-CV-00652**

SNYDER'S-LANCE, INC. and PRINCETON
VANGUARD, LLC,

Plaintiffs,

v.

FRITO-LAY NORTH AMERICA, INC.,

Defendant.

**DECLARATION OF DAVID E.
ARMENDARIZ**

EXHIBIT 4



13515 Ballantyne Corporate Place
Charlotte, NC 28277

Matthew Cameron

Corporate Counsel

PH: (704) 557-8314

FAX: (704) 557-8002

E-mail: mcameron@snyderslance.com

December 20, 2017

BY UPS

Andrew Siegert
President
Betty Jane Candies
3049 Asbury Rd
Dubuque, IA 52001 US
Tel. 563-582-4668

PRETZEL CRISPS® Trademark

Dear Mr. Siegert:

As you may know, Snyder's-Lance is the owner of the well-known PRETZEL CRISPS® brand of delicious pretzel crackers, which is marketed and sold by our subsidiary, Snack Factory. We write to object to your use of the term "Pretzel Crisps" on your Betty's Bites snack product and to demand that you immediately cease such use.

Since its introduction in 2004, the PRETZEL CRISPS® brand of pretzel crackers have become one of the most successful snack foods on the market. Today, PRETZEL CRISPS® pretzel crackers come in many flavors and varieties, and are available in a wide range of retail outlets across the United States. All PRETZEL CRISPS® packages prominently feature the distinctive PRETZEL CRISPS® trademark, as shown below.



Your Betty's Bites product improperly uses Snyder's-Lance's well-known, registered trademark PRETZEL CRISPS® as part of its packaging.



We are concerned that your use of the term "Pretzel Crisps" could easily confuse buyers into believing your company or your Betty's Bites product is associated with or affiliated in some way with Snack Factory or its PRETZEL CRISPS® brand, or are made with genuine PRETZEL CRISPS® crackers. This use of our trademark is not only confusing, it is an inappropriate use of our name and trademark. As such, we must ask that you cease use of our trademark.

We hope that we can resolve this matter amicably and quickly by your agreeing to immediately remove and permanently cease any and all uses of the PRETZEL CRISPS® trademark. We would appreciate receiving your written response to our within 14 days. If we do not hear from you by then, we will assume that you have no intention of complying with our requests and will proceed accordingly with outside counsel.

Very Truly Yours,



Matthew C. Cameron, Corporate Counsel

cc: Gail Sharps Myers, General Counsel
Debevoise & Plimpton LLP

From:
Sent:
To: Redacted
Subject:
Attach:

Redacted

Matt Cameron

Assistant General Counsel
Snyder's-Lance, Inc.
13515 Ballantyne Corporate Place
Charlotte, NC 28277
W: 704.557.8314
MCameron@snyderslance.com



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From: Andrew Siegert [mailto:andrewsiegert@bettyjanecandies.com]
Sent: Wednesday, January 17, 2018 2:23 PM
To: Matthew Cameron <MCameron@snyderslance.com>
Subject: Re: Betty Jane Candies Betty's Bites

Form is attached Matthew, thanks again for the help!

Thanks.

Drew Siegert

President, Betty Jane Homemade Candies Inc.
PH: 563-582-4668 toll free 1-800-642-1254
FAX: 563-582-2150
www.bettyjanecandies.com
www.facebook.com/bettyjanecandies
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telephone at 1-800-642-1254; and return the original message to us at the above address or destroy all copies. Thank you.

On Tue, Jan 16, 2018 at 9:03 AM, Andrew Siegert <andrewsiegert@bettyjanecandies.com> wrote:

Thank you very much, it looks fine to me but let me run it by our lawyer and I will get it back to you as soon as possible. Again I really appreciate you guys helping us out on this, please pass my appreciation along!

Thanks.

Drew Siegert

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On Fri, Jan 12, 2018 at 10:30 AM, Matthew Cameron <MCameron@snyderslance.com> wrote:

Hi Andrew –

I actually noticed that I had an error in this document. In Section 5, the date that is currently listed as January 1, 2018, should actually be the date that Betty Jane first used the term “PRETZEL CRISPS” in connection with its products. I have reattached an updated version leaving that date blank.

Please let me know if you have any questions.

Thanks,

Matt Cameron

Corporate Counsel

Snyder's-Lance, Inc.

13515 Ballantyne Corporate Place

Charlotte, NC 28277

W: 704.557.8314

MCameron@snyderslance.com



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From: Matthew Cameron
Sent: Thursday, January 11, 2018 10:04 PM
To: 'Andrew Siegert' <andrewsiegert@bettyjanecandies.com>
Subject: RE: Betty Jane Candies Betty's Bites

Hi Andrew –

Please see attached a draft of the license agreement for the use of our PRETZEL CRISPS mark in conjunction with a sell-through of your existing packaging for the Betty's Bites. If you or your counsel have any questions after reviewing the draft license, please do not hesitate to reach out.

We appreciate your attention to this matter, and I look forward to speaking with you soon.

Best regards,

Matt Cameron
Corporate Counsel
Snyder's-Lance, Inc.
13515 Ballantyne Corporate Place
Charlotte, NC 28277
W: 704.557.8314
MCameron@snyderslance.com



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From: Andrew Siegert [<mailto:andrewsiegert@bettyjanecandies.com>]
Sent: Wednesday, January 03, 2018 5:04 PM
To: Matthew Cameron <MCameron@snyderslance.com>
Subject: Re: Betty Jane Candies Betty's Bites

Thank you very much Matthew!

We had 2 sizes of these, just added a 3rd recently.

14oz bags I have about a years worth
6oz bags I have about 6 months worth
12oz is new, we just got these in, I would estimate about 4-6 months worth.

If you can't give us permission for a whole year I understand, just let me know what we can do please and thanks again for helping us out on this I really appreciate it!

Thanks.

Drew Siegert

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On Wed, Jan 3, 2018 at 11:28 AM, Matthew Cameron <MCameron@snyderslance.com> wrote:

Hi Drew –

Thanks for reaching out, and we really appreciate your attention to this matter. About how long do you think you will need to sell-off the existing inventory of packaging? We can put together a limited license for you to do so without issue.

Thanks,

Matt Cameron

Corporate Counsel
Snyder's-Lance, Inc.
[13515 Ballantyne Corporate Place](https://www.snyderslance.com)
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MCameron@snyderslance.com



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From: Andrew Siegert [mailto:andrewsiegert@bettyjanecandies.com]
Sent: Friday, December 29, 2017 4:10 PM
To: Matthew Cameron <MCameron@snyderslance.com>
Subject: Betty Jane Candies Betty's Bites

Hello Mr Cameron,

I received your letter today, I apologize for the late reply, I'm still catching up on office items after the

busy holiday season.

I sincerely apologize, we did not intend to use your product name without authorization. It was a mistake on our part, I didn't realize the name Pretzel Crisp was your trade name, rather in the rush to get packaging designed and ordered, I assumed it was a descriptor term for the type of pretzel item (similar to pretzel rod for example, describing the pretzel product) and approved the artwork for print.

I completely understand your position but would like to ask a favor. We are a small company, I have \$8,000 worth of packaging for this item that we would have to dump.

Would it be possible for us to continue to use this packaging and make the change on the next run of bags? I would be willing to give Snyder payment to allow us to do so in exchange for your generosity, 10 cents per bag sold each month?

Again I apologize for this embarrassing mistake, I would never intentionally use a trademarked name, it was an oversight on our part. Please let me know if it would be possible for us to use up the existing packaging and make the change on the next run of bags.

Have a good weekend and happy new year.

Thanks.

Drew Siegert

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